IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.20761 of 2006
Date of Decision: 19-01-2007

Modh. Hanif son of Kole Khan

.....Petitioner

VERSUS

State of Haryana and others

.....Respondents

CORAM:- HON'BLE MR.JUSTICE ASHUTOSH MOHUNTA
HON'BLE MR.JUSTICE R S MADAN

PRESENT: Mr.Vinod S.Bhardwaj, Advocate
for the petitioner.

R S MADAN, J.

Challenge herein this writ petition is validity of instructions issued by respondent No.1 vide No.34/1/2006-4GSI dated 31-01-2006 (Annexure P1) whereby the retirement age of the physically handicapped Government employees was raised from 58 years to 60 years, is null and void being un-constitutional, illegal, arbitrary and discriminatory to the extent where the said benefit has been extended only to the employees falling in Group A to Group D, who possessed the minimum degree of disability of 70% and further direction be issued to extend the benefit of raising the age of superannuation of physically handicapped persons, to all the persons who are similarly placed irrespective of the percentage of disability and to extend equal treatment and opportunity by issuing fresh instructions because the classification is arbitrary and has no nexus rationale of the object sough to be achieved.

The petitioner who passed his Bachelor of Education (B.Ed.) from the Punjab University, Chandigarh in April, 1973 has suffered

from amputation and was held to be orthopaedically handicapped to the extent of 50% as per the Certificate (Annexure P5) issued by the Orthopaedic Surgeon. The petitioner was appointed with the Department of Education, Haryana in connection with the Adult Education Rural Functional Literary Project/State Adult Education Programme, which was abolished in February, 1990 and resultantly his services were terminated. He was re-appointed and re-adjusted after legal battle up to the Supreme Court. He is presently posted in the Government High School, Kurthala, Gurgaon.

After going through the instructions, we find that as per instructions (Annexure P1) wherein a person having suffered disability 70% and more than 70%, the age of retirement has been extended from 58 to 60 years. It is the reasonable classification because the persons suffering from disability of 70% and more than 70% require the State to take care of their well being.

The contention of the learned counsel that every person who is physically handicapped and suffered disability is entitled to the same benefit as has been granted to the persons physically handicapped suffering 70% or more than 70% disability. The action of the respondent in issuing these instructions is in itself a reasonable classification. Therefore, these instructions does not suffer from any infirmity.

We find no merit in the present Civil Writ Petition and the same is hereby dismissed.

(R S MADAN)
JUDGE

(ASHUTOSH MOHUNTA)
JUDGE

January 19, 2007
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